

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 682

BY EDUCATION COMMITTEE

AN ACT

RELATING TO THE IDAHO SCHOOL BOND GUARANTY ACT; AMENDING SECTION 33-5305, IDAHO CODE, TO PROVIDE THAT THE SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL MAKE REPORTS OF SCHOOL DISTRICT FISCAL SOLVENCY; AMENDING SECTION 33-5306, IDAHO CODE, TO AUTHORIZE THE TREASURER TO ESTABLISH PROCEDURES FOR PROVIDING NOTICE WHERE A DEBT SERVICE PAYMENT MAY BE DELINQUENT AND TO PROVIDE THE PROCESS FOR THE TREASURER TO MAKE SUCH PAYMENTS; AMENDING SECTION 33-5308, IDAHO CODE, TO ESTABLISH THE FUNDING ACTIVITIES AVAILABLE TO THE TREASURER TO MAKE A SCHOOL BOND DEBT SERVICE PAYMENT, TO PROVIDE LIMITATIONS ON AND AUTHORIZATION FOR THE REPLACEMENT OF INTERCEPTED FUNDS, AND TO REMOVE LANGUAGE TRANSFERRED TO A NEW SECTION; AMENDING CHAPTER 53, TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 33-5308A, IDAHO CODE, TO PROVIDE THE REQUIREMENTS FOR NOTES ISSUED BY THE TREASURER TO FUND A SCHOOL BOND DEBT SERVICE PAYMENT; AMENDING SECTION 33-5309, IDAHO CODE, TO REMOVE REFERENCES TO THE STATE SALES TAX ACCOUNT AND DUTIES OF THE TAX COMMISSION, TO ESTABLISH DUTIES OF THE CONTROLLER AND TO PROVIDE FOR PAYMENT OF GUARANTEED SCHOOL BOND DEBT SERVICE PAYMENTS AND REPAYMENT OF BORROWED FUNDS FROM SALES TAX RECEIPTS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 33-5305, Idaho Code, be, and the same is hereby amended to read as follows:

33-5305. STATE TO MONITOR FISCAL SOLVENCY OF SCHOOL DISTRICTS -- DUTIES OF STATE TREASURER AND STATE SUPERINTENDENT OF PUBLIC INSTRUCTION. (1) The state treasurer shall:

(a) Receive the following from each school district applying for the state's guaranty under this chapter and each school district receiving the state's guaranty under this chapter:

(i) A copy of the annual statement of financial condition and report required in section 33-701, Idaho Code; and

(ii) A copy of the complete audit of the financial statements of the school district prepared pursuant to section 33-701, Idaho Code.

(b) ~~At least~~ In conjunction with the state superintendent of public instruction, annually ~~report~~ report his conclusions concerning the fiscal solvency of school districts receiving a guaranty under this chapter to the governor, the legislature, ~~and the endowment fund investment board and the state superintendent of public instruction;~~ and

(c) Report immediately to the governor, the endowment fund investment board and the state superintendent of public instruction any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(2) The state superintendent of public instruction shall:

(a) Provide an analysis of a school district's current fiscal solvency upon the request of the state treasurer;

(b) In conjunction with the state treasurer, annually report his conclusions concerning the fiscal solvency of school districts receiving a guaranty under this chapter to the governor, the legislature and the endowment fund investment board; and

(c) Report immediately to the governor, the endowment fund investment board and the state treasurer any circumstances suggesting that a school district will be unable to timely meet its debt service obligations and recommend a course of remedial action.

(3) (a) After examining the analysis of the state superintendent of public instruction and other information available to the state treasurer, the state treasurer shall determine whether or not the financial affairs and condition of a school district are such that it would be imprudent for the state to guarantee future bonds of that school district.

(b) If the state treasurer determines that the state should not guarantee the bonds of that school district, the state treasurer shall:

(i) Prepare a determination of ineligibility for future guaranties; and

(ii) Keep it on file in the office of the state treasurer.

(c) The state treasurer may remove a school district from the status of ineligibility for future guaranties when a subsequent report of the school district or other information made available to the state treasurer evidences that it is no longer imprudent for the state to guarantee the bonds of that school district.

(4) Nothing in this section affects the state's guaranty of bonds of a school district issued:

(a) Before determination of ineligibility for future guaranties;

(b) After the eligibility for future guaranties of the school district is restored; or

(c) Under a certificate of eligibility issued under this chapter.

SECTION 2. That Section 33-5306, Idaho Code, be, and the same is hereby amended to read as follows:

33-5306. PAYING AGENT TO PROVIDE NOTICE -- STATE TREASURER TO EXECUTE TRANSFER TO PAYING AGENTS -- EFFECT OF TRANSFER.

(1) (a) The superintendent of each school district with outstanding, unpaid bonds shall transfer moneys sufficient for the scheduled debt service payment to its paying agent at least fifteen (15) days before any principal or interest payment date for the bonds.

(b) The paying agent may, if instructed to do so by the superintendent, invest the moneys at the risk and for the benefit of the ~~board~~ school district until the payment date.

(c) A superintendent who is unable to transfer the scheduled debt service payment to the paying agent fifteen (15) days before the payment date shall immediately notify the paying agent and the state treasurer ~~by:~~ as set forth in the procedures for notice under the provisions of this chapter established by the state treasurer.

~~(i) Telephone;~~

~~(ii) A writing sent by facsimile transmission; and~~

~~(iii) A writing sent by first class United States mail.~~

(2) If sufficient funds are not transferred to the paying agent as required by subsection (1) of this section, the paying agent shall notify the state treasurer of that failure in writing at least ten (10) days before the scheduled debt service payment date ~~by:~~ as set forth in the procedures for notice under the provisions of this chapter established by the state treasurer.

~~(a) Telephone;~~

~~(b) A writing sent by facsimile transmission; and~~

~~(c) A writing sent by first class United States mail.~~

(3) (a) If sufficient moneys to pay the scheduled debt service payment have not been transferred to the paying agent, the state treasurer shall, on or before the scheduled payment date, ~~transfer~~ gather sufficient moneys ~~to the paying agent to make the scheduled debt service payment as set forth in section 33-5308, Idaho Code, and transfer such moneys to the paying agent.~~

(b) The payment by the treasurer:

(i) Discharges the obligation of the issuing ~~board~~ school district to its bondholders for the payment; and

(ii) Transfers the rights represented by the general obligation of the ~~board~~ school district from the bondholders to the state.

(c) The ~~board~~ school district shall pay the transferred obligation to the state as provided in this chapter.

SECTION 3. That Section 33-5308, Idaho Code, be, and the same is hereby amended to read as follows:

33-5308. BACKUP LIQUIDITY ARRANGEMENTS ~~ISSUANCE OF~~
~~NOTES.~~ (1) ~~(a)~~ If, at the time the state is required to make a debt service payment under its guaranty on behalf of a school district, sufficient moneys of the state are not on hand and available for that purpose, the state treasurer ~~may:~~ shall gather sufficient funds to make the debt service payment by using one (1) or more of the following:

(a) Intercepting all or a portion of any payments from any source of operating moneys provided by the state to the school district that issued the bonds that would otherwise be paid to the school district by the state;

(b) Requesting the state controller transfer to the public school guarantee fund established by section 33-5309, Idaho Code, moneys from the state general fund established by section 67-1205, Idaho Code, representing sales tax receipts of the state in an amount not to exceed the scheduled debt service payment and

~~(i) Seek a loan from the public school guarantee using such funds sufficient to make all or a portion of the required payment; or~~

~~(ii) Issuing state notes as provided in subsection (2) of this, subject to the terms of section 33-5308A, Idaho Code; or~~

(d) Negotiating a voluntary loan from funds administered by the endowment fund investment board to make all or a portion of the required payment, provided that

~~(b) Nothing in this subsection (1) (d) requires the public school permanent endowment fund investment board to lend moneys to the state treasurer.~~

~~(c) Each series of notes issued may not mature later than twelve (12) months from the date the notes are issued, or the end of the fiscal year, whichever is sooner.~~

~~(d) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of an accrued but unpaid interest on any refunded notes plus all costs of issuance, sale and delivery of the refunding notes, rounded up to the nearest natural multiple of five thousand dollars (\$5,000).~~

~~(e) Each series of refunding notes may not mature later than twelve (12) months from the date the refunding notes are issued, or the end of the fiscal year, whichever is sooner.~~

~~(2) (a) Before issuing or selling any note to other than a state fund or account, the state treasurer shall:~~

~~(i) Prepare a written plan of financing; and~~

~~(ii) File it with the governor.~~

~~(b) The plan of financing shall provide for:~~

~~(i) The terms and conditions under which the notes will be issued, sold and delivered;~~

~~(ii) The taxes or revenues to be anticipated;~~

~~(iii) The maximum amount of notes that may be outstanding at any one (1) time under the plan of financing;~~

~~(iv) The sources of payment of the notes;~~

~~(v) The rate or rates of interest, if any, on the notes or a method, formula or index under which the interest rate or rates on the notes may be determined during the time the notes are outstanding; and~~

~~(vi) All other details relating to the issuance, sale and delivery of the notes.~~

~~(c) In identifying the taxes or revenues to be anticipated and the sources of payment of the notes in the financing plan, the state treasurer may include:~~

~~(i) The taxes authorized by this chapter;~~

~~(ii) The intercepted revenues authorized by this chapter;~~

~~(iii) The proceeds of refunding notes; or~~

~~(iv) Any combination of subparagraphs (i), (ii) and (iii) of this paragraph.~~

~~(d) The state treasurer may include in the plan of financing the terms and conditions of arrangements entered into by the state treasurer on behalf of the state with financial and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing and tender agreements to secure the notes, including payment from any legally available source of fees, charges or other amounts coming due under the agreements entered into by the state treasurer.~~

~~(e) When issuing the notes, the state treasurer shall issue an order setting forth the interest, form, manner of execution, payment, manner~~

~~of sale, prices at, or below face value, and all details of issuance of the notes.~~

~~(f) The order and the details set forth in the order shall conform with any applicable plan of financing and with this chapter.~~

~~(g) (i) Each note shall recite that it is a valid obligation of the state and that the full faith, credit, and resources of the state are pledged for the payment of the principal of and interest on the note from the taxes or revenues identified in accordance with its terms and the constitution and laws of Idaho.~~

~~(ii) These general obligation notes do not constitute debt of the state for the purposes of the debt limitation of section 1, article VIII, of the constitution of the state of Idaho.~~

~~(h) Immediately upon the completion of any sale of notes, the state treasurer shall:~~

~~(i) Make a verified return of the sale to the state controller, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms and conditions of the sale; and~~

~~(ii) Credit the proceeds of the sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the general fund to be applied to the purpose for which the notes were issued~~

(2) The state has no obligation to the school district or to any person or entity to replace any moneys intercepted under the authority of this section. Any school district whose operating funds were intercepted pursuant to this section may replace those funds from other school district moneys or from property taxes, subject to the limitations provided in section 33-5307, Idaho Code.

(3) If the sources of funds set forth in subsection (1) of this section are insufficient to make a debt service payment and the school district bond is guaranteed by the credit enhancement program established pursuant to section 57-728, Idaho Code, the state treasurer shall make a request for the purchase of notes in the amount of the deficiency by the endowment fund investment board on behalf of the public school endowment as set forth in section 57-728, Idaho Code.

SECTION 4. That Chapter 53, Title 33, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 33-5308A, Idaho Code, and to read as follows:

33-5308A. STATE NOTES ISSUED TO FINANCE DEFAULT AVOIDANCE PROGRAM. State notes issued by the state treasurer pursuant to section 33-5308, Idaho Code, shall comply with the following:

(1) Each series of notes issued shall mature not later than twelve (12) months from the date the notes are issued, or the end of the fiscal year, whichever is sooner.

(2) Notes issued may be refunded using the procedures set forth in this chapter for the issuance of notes, in an amount not more than the amount necessary to pay principal of an accrued but unpaid interest on any refunded notes plus all costs of issuance, sale and delivery of the refunding notes, rounded up to the nearest integral multiple of five thousand dollars (\$5,000).

1 (3) Each series of refunding notes shall mature not later than twelve
2 (12) months from the date the refunding notes are issued, or the end of the
3 fiscal year, whichever is sooner.

4 (4) Before issuing or selling any note to other than a state fund or ac-
5 count, the state treasurer shall prepare a written plan of financing and file
6 it with the governor. The plan of financing shall comply with the following:

7 (a) The plan of financing shall provide for:

8 (i) The terms and conditions under which the notes will be issued,
9 sold and delivered;

10 (ii) The taxes or revenues to be anticipated;

11 (iii) The maximum amount of notes that may be outstanding at any
12 one (1) time under the plan of financing;

13 (iv) The sources of payment of the notes;

14 (v) The rate or rates of interest, if any, on the notes or a method,
15 formula or index under which the interest rate or rates on the
16 notes may be determined during the time the notes are outstanding;
17 and

18 (vi) All other details relating to the issuance, sale and delivery
19 of the notes.

20 (b) In identifying the taxes or revenues to be anticipated and the
21 sources of payment of the notes in the financing plan, the state trea-
22 surer may include any combination of the following:

23 (i) The taxes authorized by this chapter;

24 (ii) The intercepted revenues authorized by this chapter;

25 (iii) The proceeds of refunding notes; or

26 (iv) The terms and conditions of arrangements entered into by the
27 state treasurer on behalf of the state with financial and other
28 institutions for letters of credit, standby letters of credit,
29 reimbursement agreements, and remarketing, indexing and tender
30 agreements to secure the notes, including payment from any legally
31 available source of fees, charges or other amounts coming due
32 under the agreements entered into by the state treasurer.

33 (5) When issuing the notes to other than a state fund or account, the
34 state treasurer shall issue an order setting forth the interest, form, man-
35 ner of execution, payment, manner of sale, prices at or below face value, and
36 all details of issuance of the notes. The order and the details set forth in
37 the order shall conform with any applicable plan of financing and with this
38 chapter.

39 (6) Each note shall recite:

40 (a) That it is a valid obligation of the state and that the full faith,
41 credit, and resources of the state are pledged for the payment of the
42 principal of and interest on the note from the taxes or revenues iden-
43 tified in accordance with its terms and the constitution and laws of
44 Idaho.

45 (b) That these general obligation notes do not constitute debt of the
46 state for the purposes of the debt limitation of section 1, article
47 VIII, of the constitution of the state of Idaho.

48 (7) Immediately upon the completion of any sale of notes, the state
49 treasurer shall:

(a) Make a verified return of the sale to the state controller, specifying the amount of notes sold, the persons to whom the notes were sold, and the price, terms and conditions of the sale; and

(b) Credit the proceeds of the sale, other than accrued interest and amounts required to pay costs of issuance of the notes, to the general fund to be applied to the purpose for which the notes were issued.

SECTION 5. That Section 33-5309, Idaho Code, be, and the same is hereby amended to read as follows:

33-5309. ~~UNLIMITED SALES TAX ACCOUNT RECEIPTS PLEDGE -- STATE TAX COMMISSION~~ CONTROLLER DUTIES.

(1) ~~(a) In each year after the issuance of general obligation notes under this chapter and until all outstanding notes are retired, there shall be transferred from the state sales tax account pursuant to section 63-3638, Idaho Code, an amount sufficient to pay all principal of and interest on the general obligation notes as they become due. There is hereby created in the state treasury the public school guarantee fund. Moneys in the fund shall be used only for payment of debt service payments under the provisions of this chapter, repayment of borrowing undertaken under the provisions of this chapter, to repay state funds used to make debt service payments under the provisions of this chapter, or as provided in section 33-5308, Idaho Code. Earnings of the public school guarantee fund shall be deposited into the general fund established by section 67-1205, Idaho Code.~~

~~(b)~~ (b) If moneys expected to be intercepted under this chapter are ~~expected~~ projected to be insufficient to make a debt service payment pursuant to section 33-5308, Idaho Code, to reimburse the state for its payments of school districts' scheduled debt service payments or it is necessary for the state treasurer to borrow as provided in this chapter and amounts to be intercepted under this chapter are expected to be insufficient to timely pay the general obligation notes issued or other borrowing undertaken under that section 33-5308, Idaho Code, the state treasurer shall certify to and give notice to the state tax commission controller of the amount of the deficiency.

~~(c)~~ (c) After receipt of that certified notice from the state treasurer, the state ~~tax commission controller~~ shall:

~~(i) Immediately fix the amount necessary and in the amount of the deficiency stated in the notice; and~~

~~(ii) Cause moneys representing state sales tax receipts to be transferred from the state sales tax account pursuant to section 63-3638, Idaho Code general fund established by section 67-1205, Idaho Code, and deposited in the public school guarantee fund which is hereby statutorily created in the amount of the deficiency certified by the state treasurer.~~

(2) To the extent that other legally available revenues and funds of the state are insufficient to meet the certified deficiency, the state tax commission shall transfer moneys transferred from the sales tax account as set forth in section 63-3638, Idaho Code, is abated.

1 SECTION 6. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval.